
Introduced by Senator MorrowFebruary 22, 2006

An act to amend Section 3294 of the Civil Code, relating to punitive damages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1429, as introduced, Morrow. Punitive damages: product liability.

Existing law authorizes the plaintiff, in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, to recover damages for the sake of example and by way of punishing the defendant in addition to the actual damages.

This bill would provide, in a case involving injury or harm allegedly caused by a product, that the manufacturer, distributor, or seller of the product shall not be guilty of oppression, fraud, or malice if, at the time of manufacture, distribution, or sale, the product, or the aspect, component, warning, or absence of warning contained in or accompanying the product that allegedly caused the injury or harm, was either approved by, or in material compliance with, a statute or the standards, rules, regulations, requirements, or specifications of, a federal or state agency responsible for regulating, evaluating, or approving the product, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) It is the intent of the Legislature to encourage compliance
2 with government product regulations, including reporting and
3 disclosure requirements, thereby improving public health and
4 safety. Californians will benefit from a law that increases the
5 incentive for companies to disclose product information
6 important to consumer health and safety.

7 (b) Punitive damages are designed to punish wrongdoers for
8 despicable conduct above and beyond damages to compensate
9 for an injury. Companies that are proven guilty of oppression,
10 fraud, or malice in conscious disregard of consumer health and
11 safety may be punished by punitive damages.

12 (c) People who can prove they were injured by a defective
13 product should continue to be able to receive compensation for
14 their actual damages, such as their medical expenses, lost wages,
15 and pain and suffering.

16 (d) Companies that follow regulatory standards or obtain
17 government approval of a product that later is proven to have a
18 defect that causes injury should compensate consumers for their
19 actual damages, but should not be faced with paying millions of
20 dollars more as a punishment.

21 (e) Plaintiffs' lawyers routinely threaten huge amounts of
22 punitive damages in order to force costly settlements without
23 going to court. The lawyers are the big winners; their fees take a
24 high percentage of a settlement.

25 (f) Lawsuits unfairly seeking punitive damages unnecessarily
26 complicate litigation, delay compensation to deserving people,
27 drive up legal costs, increase the cost of products, and clog
28 courts, thereby penalizing taxpayers.

29 (g) The prospect of being an easy target for punitive damages,
30 even if the rules are followed, poses a major barrier for
31 companies intending to engage in research and development of
32 new products like medicines or vaccines that enhance health and
33 safety.

34 (h) Californians benefit from federal and state government
35 regulatory agency standards, and product approvals that involve
36 comprehensive data collection, extensive scientific analysis, and
37 testing and review that include public input.

38 (i) It is a reasonable interpretation of Section 3294 of the Civil
39 Code that a company is not guilty of oppression, fraud, or malice
40 if it has followed the law, complied with the standards of a

1 government agency, and met its disclosure obligations to the
2 government.

3 (j) It is the intent of the Legislature to clarify and confirm that
4 punitive damages are a remedy controlled by statute, not a vested
5 right, and that it is entirely proper and fair to apply this measure
6 to all cases pending on or after the effective date of this act.

7 SEC. 2. Section 3294 of the Civil Code is amended to read:

8 3294. (a) In an action for the breach of an obligation not
9 arising from contract, where it is proven by clear and convincing
10 evidence that the defendant has been guilty of oppression, fraud,
11 or malice, the plaintiff, in addition to the actual damages, may
12 recover damages for the sake of example and by way of
13 punishing the defendant.

14 (b) An employer shall not be liable for damages pursuant to
15 subdivision (a), based upon acts of an employee of the employer,
16 unless the employer had advance knowledge of the unfitness of
17 the employee and employed him or her with a conscious
18 disregard of the rights or safety of others or authorized or ratified
19 the wrongful conduct for which the damages are awarded or was
20 personally guilty of oppression, fraud, or malice. With respect to
21 a corporate employer, the advance knowledge and conscious
22 disregard, authorization, ratification or act of oppression, fraud,
23 or malice must be on the part of an officer, director, or managing
24 agent of the corporation.

25 (c) As used in this section, the following definitions shall
26 apply:

27 (1) “Malice” means conduct—~~which~~ *that* is intended by the
28 defendant to cause injury to the plaintiff or despicable conduct
29 ~~which~~ *that* is carried on by the defendant with a willful and
30 conscious disregard of the rights or safety of others.

31 (2) “Oppression” means despicable conduct that subjects a
32 person to cruel and unjust hardship in conscious disregard of that
33 person’s rights.

34 (3) “Fraud” means an intentional misrepresentation, deceit, or
35 concealment of a material fact known to the defendant with the
36 intention on the part of the defendant of thereby depriving a
37 person of property or legal rights or otherwise causing injury.

38 (d) Damages may be recovered pursuant to this section in an
39 action pursuant to Chapter 4 (commencing with Section 377.10)
40 of Title 3 of Part 2 of the Code of Civil Procedure based upon a

1 death—~~which~~ *that* resulted from a homicide for which the
2 defendant has been convicted of a felony, whether or not the
3 decedent died instantly or survived the fatal injury for some
4 period of time. The procedures for joinder and consolidation
5 contained in Section 377.62 of the Code of Civil Procedure shall
6 apply to prevent multiple recoveries of punitive or exemplary
7 damages based upon the same wrongful act.

8 (e) *(1) In a case involving injury or harm allegedly caused by*
9 *a product, the manufacturer, distributor, or seller of the product*
10 *shall not be guilty of oppression, fraud, or malice as defined in*
11 *this section if, at the time of manufacture, distribution, or sale,*
12 *the product, or the aspect, component, warning, or absence of*
13 *warning contained in or accompanying the product that*
14 *allegedly caused the injury or harm, was either approved by, or*
15 *in material compliance with, a statute or the standards, rules,*
16 *regulations, requirements, or specifications of, a federal or state*
17 *agency responsible for regulating, evaluating, or approving the*
18 *product.*

19 *(2) This subdivision does not apply if it is proven by clear and*
20 *convincing evidence that the defendant intentionally withheld or*
21 *intentionally misrepresented information that it was required at*
22 *any time to submit to the agency, and the withholding or*
23 *misrepresentation of that information was causally related to the*
24 *injury or harm alleged.*

25 *(3) This subdivision applies to every case pending on or after*
26 *the effective date of the act adding this subdivision regardless of*
27 *when the case was filed.*

28 (f) The amendments to this section made by Chapter 1498 of
29 the Statutes of 1987 apply to all actions in which the initial trial
30 has not commenced prior to January 1, 1988.